



OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

GERALD C. MANN
ATTORNEY GENERAL

Honorable T. O. Walton, President,
A. & M. College of Texas
College Station, Texas

Dear Dr. Walton:

Opinion No. O-4562

Re: Eligibility of the head of
Department of Genetics of
the A. & M. College to
serve as a member of the
State Seed and Plant Board.

We have your letter of May 5, 1942, as follows:

"Will you please give me an opinion as to whether it is a violation of Section 33, Article 16, of the Texas Constitution, for the Head of our Department of Genetics to serve as a member of the State Seed and Plant Board."

House Bill No. 176, Chapter 93, passed by the 41st Legislature, First Called Session, creates and defines the duties of the State Seed and Plant Board.

Section 3 of the Bill declares:

"The State Board of Plant Breeder Examiners created by Chapter 2 of Title 4, Vol. 1 of Revised Civil Statutes of 1925, to be hereafter called the State Seed and Plant Board, shall, etc., * * *".

The bill in various sections prescribes the duties of the State Seed and Plant Board.

The initial sentence in the caption of the Bill is this:

"An Act to safeguard the public in the purchase of pure-bred agricultural seed, true to name."

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Section 33 of Article XVI of the Constitution, insofar as is pertinent, is as follows:

"The accounting officers of this State shall neither draw nor pay a warrant upon the Treasury in favor of any person, for salary or compensation as agent, officer or appointee, who holds at the same time any other office or position of honor, trust or profit, under this State or the United States, except as prescribed in this Constitution."

Item 84 in the current appropriation for Agricultural and Mechanical College of Texas, main college, is:

"Professor and head of Department (Genetics)
(12 months).....\$4,200.00."

Undoubtedly, such professor and head of department holds a "position of honor, trust and profit" under the State, and as such, he may not receive pay from the State through a warrant upon the Treasury while holding at the same time another position of honor, trust or profit under the State.

As above indicated, the position of member of the State Seed and Plant Board is undoubtedly a "position of honor and trust", if not of profit, within the meaning of Section 33, of Article XVI, and therefore perforce of the Constitution, the professor and head of Department of Genetics may not serve as a member of the State Seed and Plant Board while drawing salary for his institutional position.

The principle is ruled by our Opinions Nos. 0-2601 and 0-4458, copies of which we hand you herewith.

Very truly yours

ATTORNEY GENERAL OF TEXAS

By

Ocie Speer
Ocie Speer
Assistant

OS-MR
Enclosure

APPROVED MAY 15, 1942
Gracie B. Mann
ATTORNEY GENERAL OF TEXAS

